

**May 13, 2002**

**PETITION FOR APPROVAL OF THE  
INTERCONNECTION AGREEMENT  
NEGOTIATED BETWEEN BELLSOUTH  
TELECOMMUNICATIONS, INC. AND  
DIECA COMMUNICATIONS, INC. D/B/A  
COVAD COMMUNICATIONS COMPANY,  
INC. PURSUANT TO THE  
TELECOMMUNICATIONS ACT OF 1996**

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**DOCKET NO. 00-01130**

## ORDER APPROVING INTERCONNECTION AGREEMENT

On December 21, 2000, Covad filed a *Petition for Arbitration* requesting the Authority arbitrate certain unresolved issues between BellSouth Telecommunications, Inc. ("BellSouth") and DIECA Communications, Inc. d/b/a Covad Communications Company, Inc. ("Covad"). At the February 6, 2001 Authority Conference, the Directors voted to accept the petition, appoint themselves as arbitrators, and appoint General Counsel or his designee to act as the Pre-Arbitration Officer. Thereafter, the arbitration proceeded with the parties filing joint issues matrices, engaging in discovery, and presenting pre-filed testimony. On February 12, 2002,

BellSouth filed the *Petition* requesting the Authority approve the Interconnection Agreement attached thereto. The cover letter to the *Petition* explained that the Agreement was negotiated between the parties and resolved all remaining issues in the arbitration.

Based upon the *Petition*, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously approved the Agreement and made the following findings and conclusions:

1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.

2) The Agreement is in the public interest as it provides consumers with alternative sources of telecommunications services within the BellSouth Telecommunications, Inc. service area.

3) The Agreement is not discriminatory to telecommunications service providers that are not parties thereto.

4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).<sup>1</sup> Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the Agreement is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.

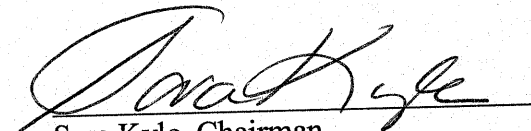
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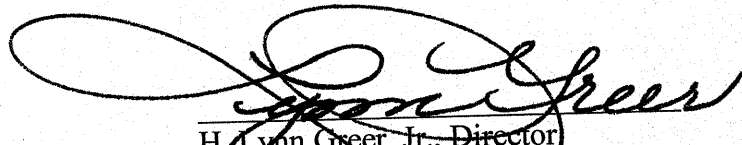
<sup>1</sup> See 47 U.S.C. § 252(e)(2)(B)(Supp. 2001).

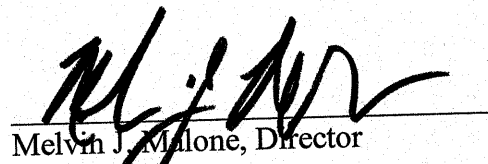
- 5) No person or entity has sought to intervene in this docket.
- 6) The Agreement is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

**IT IS THEREFORE ORDERED THAT:**


The Interconnection Agreement negotiated between DIECA Communications, Inc. d/b/a Covad Communications Company and BellSouth Telecommunications, Inc. is approved and is subject to the review of the Authority as provided herein.

  
Sara Kyle, Chairman

  
H. Lynn Greer, Jr., Director

  
Melvin J. Malone, Director

ATTEST:

  
K. David Waddell, Executive Secretary